

incurred through the use of the DD 1251. The issuance of a DD 1251 indicates only that care requested is not available at a USMTF or USTF serving the beneficiary's residence inpatient catchment area.

(D) Review, with the patient or responsible family member, instructions 1 through 6 on the face of the DD 1251 and have the patient or responsible family member sign acknowledgement that such review has been made and is understood.

(E) Advise recipients that CHAMPUS fiscal intermediaries may deny claims of individuals who are not enrolled in the Defense Enrollment Eligibility Reporting System (DEERS).

(f) *Validity period.* DD 1251's issued for:

(1) Other than maternity care are valid for a hospital admission occurring within 30 days of issuance and remain valid from the date of admission until 15 days after discharge from the facility rendering inpatient care. This allows for any follow-on treatment related directly to the original admission.

(2) Maternity episodes are valid if outpatient of inpatient treatment related to the pregnancy is initiated within 30 days of its issuance. They remain valid for care of the mother through termination of the pregnancy and for 42 days thereafter to allow for postnatal care to be included in the maternity episode. (See paragraph (d)(3) of this section for the validity period of DD 1251's for infants remaining after discharge of the mother.)

(g) *Retroactive issuance.* Issue Non-availability Statements retroactively only if required care could not have been rendered in a USMTF or USTF as specified in paragraph (e) of this section at the time services were rendered in the civilian sector. At the time a retroactive issuance is requested, the facility receiving the request will determine whether capability existed at the USMTF or USTF serving the inpatient catchment area wherein the beneficiary resides (resided) or at any of the facilities in the overlapping area described in paragraph (e) of this section. While the date of service will be recorded on the DD 1251, send the retained original to the Naval Medical

Data Services Center along with others issued during the week of issuance (paragraph (j) of this section refers).

(h) *Annotating DD 1251's.* Before issuance, annotate each DD 1251 per the instructions for completion on the reverse of the form. DD 1251's issued under the CO's discretionary authority for the "medically inappropriate reason (paragraph (c)(3)(ii) of this section) will be annotated in the remarks section documenting the special circumstances necessitating issuance, the name and location of the source of care selected by the beneficiary, and approximate distance from the source selected to the nearest USMTF or USTF with capability (see instruction number 2 on the reverse of the DD 1251). Establish and maintain a consecutively numbered log to include for each individual to whom a DD 1251 is issued:

(1) Patient's name and identifying data.

(2) The facility unique NAS number (block number 1 on the DD 1251).

(i) *Appeal procedures.* Beneficiaries may appeal the denial of their request for a DD 1251. This procedure consists of four levels within Navy, any one of which may terminate action and order issuance of a Nonavailability Statement if deemed warranted:

(1) The first level is the chief of service, or director of clinical services if the chief of service is the cognizant authority denying the beneficiary's original request.

(2) The second level is the commanding officer of the naval MTF denying the issuance. Where the appeal is denied and denial is upheld at the commanding officer's level, inform beneficiaries that their appeal may be forwarded to the geographic commander having jurisdictional authority.

(3) The third level is the appropriate geographic commander, if the appeal is denied at this level, inform beneficiaries that their appeal may be forwarded to the Commander, Naval Medical Command, Washington, DC 20372-5120.

(4) The Commander, Naval Medical Command, the fourth level of appeal, will evaluate all documentation submitted and arrive at a decision. The beneficiary will be notified in writing

of this decision and the reasons therefor.

(j) *Data collection and reporting.* Do not issue the original of each DD 1251 prepared at activities where the DEER/NAS automated system is not operational. Send the retained originals to the Commanding Officer, Naval Medical Data Services Center (Code-03), Bethesda, MD 20814-5066 for reporting under report control symbol DD-HA (Q) 1463(6320).

§ 728.34 Care beyond the capabilities of a naval MTF.

When either during initial evaluation or during the course of treatment of an individual authorized care in this subpart, a determination is made that required care or services are beyond the capability of the naval MTF, the provisions of § 728.4(z)(2) apply.

§ 728.35 Coordination of benefits—third party payers.

Title 10 U.S.C. 1095 directs the services to collect from third-party payers the reasonable costs of inpatient hospital care incurred by the United States on behalf of retirees and dependents. Naval hospital collection agents have been provided instructions relative to this issue and are responsible for initiating claims to third-party payers for the cost of such care. Admission office personnel must obtain insurance, medical service, or health plan (third-party payer) information from retirees and dependents upon admission and forward this information to the collection agent.

§ 728.36 Pay patients.

Care is provided on a reimbursable basis to retired Coast Guard officers and enlisted personnel, retired Public Health Service Commissioned Corps officers, retired Commissioned Corps officers of the National Oceanic and Atmospheric Administration, and to the dependents of such personnel. Accordingly, patient administration personnel will follow the provisions of subpart J to initiate the collection action process when inpatient or outpatient care is provided to these categories of beneficiaries.

Subpart E—Members of Foreign Military Services and Their Dependents

§ 728.41 General provisions.

(a) *Dependent.* As used in this subpart, the term “dependent” denotes a person who bears one of the following relationships to his or her sponsor:

- (1) A wife.
- (2) A husband if dependent on his sponsor for more than one-half of his support.
- (3) An unmarried legitimate child, including an adopted or stepchild who is dependent on the sponsor for over one-half of his or her support and who either:
 - (i) Has not passed the 21st birthday; or
 - (ii) Is incapable of self-support due to a physical or mental incapacity that existed prior to reaching the age of 21; or
 - (iii) Has not passed the 23rd birthday and is enrolled in a full-time course of study in an accredited institution of higher learning.

(b) *Transfer to naval MTFs in the United States.* Do not transfer personnel covered in this subpart to the United States solely for the purpose of obtaining medical care at naval MTFs. Consideration may be given however, in special circumstances following laws of humanity or principles of international courtesy. Transfer to naval MTFs in the United States of such persons located outside the United States requires approval of the Secretary of the Navy. Naval commands, therefore, should not commit the Navy by a promise of treatment in the United States. Approval generally will not be granted for treatment of those who suffer from incurable afflictions, who require excessive nursing or custodial care, or those who have adequate facilities in their own country. When a request is received concerning transfer for treatment at a naval MTF in the United States, the following procedures apply:

- (1) Forward the request to the Chief of Naval Operations (OP-61), with a copy to the Commander, Naval Medical Command, Washington, DC 20372-5120 for administrative processing. Include: